

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**February 28, 2007**

**DIVISION ONE**

B195157      Sandra W. and Samuel W.                      (Not for Publication)  
                 v.  
                 Superior Court, Los Angeles County  
                 (Los Angeles County Department of Children and Family Services, r.p.i.)

The petition for an extraordinary writ is denied.

Rothschild, J.

We concur:   Mallano, Acting P.J.  
                 Vogel (Miriam A.), J.

B175841      Marc Meshekow                      (Not for Publication)  
                 v.  
                 Nesa Ronn-Weir

Filed order modifying opinion. (Change in judgment)

**DIVISION THREE**

B183343      Grand Avenue Enterprises, Inc., etc et al.  
                 v.  
                 City of Los Angeles, etc et al

On the court's own motion, rehearing of this matter is ordered as of this date. The matter stands resubmitted as of this date.

### DIVISION THREE (Continued)

B187169      Marshall      (Not for Publication)

V.

Playa L&amp;M Enterprises, et al.

The judgments in favor of the hotel defendants and Excellence are affirmed. Respondents shall recover their costs on appeal.

Klein, P.J.

We concur:   Croskey, J.  
                      Aldrich, J.

B189222      The People      (Not for Publication)

V.

Haikanoush Grachian

The summary judgment on the bail bond forfeiture is affirmed. Costs on appeal to the People.

Croskey, J.

We concur: Klein, P.J.  
Aldrich, J.

B187931 Marshall (Not for Publication)

V.

University of Southern California

The judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.  
Kitching, J.

DIVISION THREE (Continued)

B185615      People      (Not for Publication)

v.

Dexter Eric Williams

The judgment is modified to reflect that punishment on the Penal Code section 667.5, subdivision (b), enhancement pertaining to count 2 is imposed, but execution thereof is stayed pending completion of appellant's sentence on his conviction for second degree murder (count 1), such stay then to become permanent, and, as modified, the judgment is affirmed. The trial court is directed to forward to the Department of Corrections an amended abstract of judgment reflecting the above modification.

Kitching, J.

We concur:   Klein, P.J.  
                 Aldrich, J.

B188900      Fremont Indemnity Company      (Not for Publication)

v.

Fremont General Corporation, et al.

The judgment is reversed with directions to the superior court to (1) vacate its order sustaining the demurrer to eleven counts alleged in the first amended complaint without leave to amend, and enter a new order sustaining the demurrer without leave to amend as to counts eight and nine only and overruling the demurrer as to counts one through six and then through twelve; and (2) vacate its order sustaining the demurrer to each count alleged in the third amended complaint without leave to amend, and enter a new order overruling the demurrer in its entirety. Indemnity is entitled to recover its costs on appeal.

Croskey, Acting P.J.

We concur:   Kitching, J.  
                 Aldrich, J.

DIVISION THREE (Continued)

B181466      Hagendorf      (Not for Publication)

v.  
Zanetos

The judgment is affirmed. Hagendorf's cross-appeal is dismissed.  
Hagendorf is awarded costs on appeal.

Aldrich, J.

We concur: Klein, P.J.  
Croskey, J.

B192969      Los Angeles County, D.C.S.      (Not for Publication)

v.  
Javier C.

The order is affirmed.

Aldrich, J.

We concur: Klein, P.J.  
Croskey, J.

B186110      Ingram      (Not for Publication)

v.  
Regents of the University of California

The summary judgment is affirmed. Costs on appeal to defendant.

Croskey, Acting P.J.

We concur: Kitching, J.  
Aldrich, J.

DIVISION THREE (Continued)

B183974      Fremont Indemnity Company      (Certified for Publication)

v.

Fremont General Corporation

The judgment is reversed with directions to the superior court to (1) vacate its order sustaining the demurrer without leave to amend to each count alleged in the complaint, and (2) enter a new order sustaining the demurrer without leave to amend as to count eleven only and overruling the demurrer as to the other counts. Indemnity is entitled to recover its costs on appeal.

Croskey, Acting P.J.

We concur:    Kitching, J.  
                  Aldrich, J.

B188170      Torabzadeh      (Not for Publication)

v.

Rehabilitation Appeals Bd. of the California Department of Rehabilitation

The trial court is directed to modify its judgment to direct the Department to conduct further proceedings consistent with this opinion. As so modified, the judgment is affirmed. Torabzadeh shall recover his costs on appeal.

Croskey, J.

We concur:    Klein, P.J.  
                  Kitching, J.

February 28, 2007 (Continued)

### DIVISION THREE (Continued)

B188159      Song      (Not for Publication)  
v.  
Kim

The judgment is affirmed. Costs on appeal are awarded to plaintiff Hee Ok Song.

Kitching, J.

We concur:   Croskey, Acting P.J.  
                  Aldrich, J.

B189894          Hoffmann                                 (Not for Publication)  
v.  
Superior Court, Los Angeles County  
(Philip Merritt, etc., et al., r.p.i.)

The petition for writ of mandate is denied. Costs are awarded to real parties in interest.

Kitching, J.

We concur: Klein, P.J.  
Aldrich, J.

DIVISION FOUR

[illegible]

The maximum term of confinement is stricken and in all other respects the order of wardship is affirmed.

Epstein, P.J.

We concur: Willhite, J.  
Manella, J.

B185126      People                                  (Not for Publication)  
v.  
*Alvarez*

The conviction in count 32 for unlawful sexual intercourse with a minor in violation of Penal code section 261.5, subdivision (c) is reversed, and in all other respects the judgment is affirmed. The trial court is directed to prepare a new abstract of judgment and to send a certified copy to the Department of Corrections and Rehabilitation.

Willhite, J.

We concur: Epstein, P.J.  
Manella, J.

DIVISION SIX

B182951 People (Certified for Partial Publication)  
v.  
Guevara

The judgment is conditionally reversed. The cause is remanded to the trial court with directions to hold a new in camera hearing on Guevara's *Pitchess* motion in conformance with the procedures described in this opinion. If the trial court finds there are discoverable records, they shall be produced and the court shall conduct such further proceedings as are necessary and appropriate. If the court again finds there are no discoverable records, or that there is discoverable information but Guevara cannot establish that he was prejudiced by the denial of discovery, the judgment shall be affirmed as of that date. (*People v. Hustead* (1999) 74 Cal.App.4th 410, 423.)

Perren, J.

We concur: Yegan, Acting P.J.  
Coffee, J.

## DIVISION EIGHT

Court convened at 9:06 a.m.

Present: Cooper, P.J., Rubin, J., Boland, J., Flier, J. and Emma Jean Amos, Deputy Clerk.

Each of the following:

B187947	People v. Martinez
B191378	People v. Hay
B187098	People v Trigueros
B187921	People v. Pimental
B188397	Chuang v. Chuang
B190442	People v. Freeman
B191428	DCFS v. Maria J.



DIVISION EIGHT (Continued)

Each of the following (continued):

B192693     DCFS v. Joyce C.  
B188368     People v. Towers  
B192595     DCFS v. Willard J.

Argument waived, cause submitted.

B193259     Rong Sheng Inc.,  
                 v.  
                 Yang et al.,

Merits:

Argued by Frank Carleo for appellant. Argument previously waived by respondent. Cause submitted.

B183943     Mansour  
                 v.  
                 Crystal Park Hotel et al.,

Merits:

Argued by Joseph Zamora for appellant and by Annie Verdries for respondents. Cause submitted.

B180897     Bloom  
                 v.  
                 Denny's, Inc. et al.,

Merits:

Argued by John Carpenter for appellant and by John Campion, III for respondents. Cause submitted.

DIVISION EIGHT (Continued)

B193817      Scott Pontiac GMC

v.

Workers Compensation Appeals Board

Olsen, Respondent

Merits:

Argued by Robert Bekken for petitioner and by Susan Silberman for respondent. Cause submitted.

B181749      Perry

v.

Byrnes

Merits:

Argued by Moshe Perry appellant in propria persona and by Kenneth Broker for respondent. Cause submitted.

B178872      Logix Development Corporation et al.,

v.

Faherty

Merits:

Argued by Andrea M. Gauthier for defendant and appellant and by Anthony Ellrod and Steven Renick for plaintiffs and appellants. Cause submitted.

DIVISION EIGHT (Continued)

B189235      CV Properties Inc., et al.,  
                 v.  
                 Hojarbri  
                 Abdalla

Merits:

Argued by Daniel Hoffman and Larry Wasserman for appellants and by Dennis Riley for respondent. Appellant to file supplemental letter brief and request for judicial notice within 5 days. Respondent shall have 5 days thereafter to respond. The cause will be submitted upon filing of the last supplemental letter brief.

Court recessed.

Court reconvened at 1:07 p.m.

Present: Cooper, P.J., Rubin, J., Boland, J. and Emma Jean Amos, Deputy Clerk.

B188829      Gonzalez  
                 v.  
                 Autoliv ASP, Inc.,

Merits:

Argued by Perry Rausher for appellant and by Christopher Cato for respondent. Cause submitted.

B189277      Kim  
                 v.  
                 Euromotors West et al.,

Merits:

Argued by Mark Romano for appellant and by Peter Kravitz for respondents. Cause submitted.

DIVISION EIGHT (Continued)

B184025     Prokop  
              v.  
              City of Los Angeles et al.,

Merits:

Argued by Karen Coffin-Brent for appellant and by Blithe Bock, Deputy City Attorney for respondents. Cause submitted.

B178918     McNairy et al.,  
              v.  
              C.K. Realty et al.,

Oral argument continued to March 28, 2007 at 9:00 a.m.

Court adjourned.

B191428     Los Angeles County, D.C.S.                    (Not for Publication)  
              v.  
              Maria J.

For the reasons set forth above, the order terminating mother's parental rights in Abigail is affirmed.

Rubin, Acting P.J.

We concur: Boland, J.  
              Flier, J.

DIVISION EIGHT (Continued)

B183468      A.A.M. Health Group, Inc.,                      (Not for Publication)  
                 v.  
                 Argus Health Systems, Inc.,

The judgment is affirmed. Each party to bear its own costs on appeal.

Cooper, P.J.

We concur:    Rubin, J.  
                 Flier, J.

B185672      Bradley et al.,                      (Not for Publication)  
                 v.  
                 First Health Services Corporation et al.,

The judgment is affirmed. Parties are to bear their own costs on appeal.

Cooper, P.J.

We concur:    Rubin, J.  
                 Boland, J.

B191879      Amalgamated Transit Union,                      (Certified for Publication)  
                 Local 1756, AFL-CIO, et al.,  
                 v.  
                 S.C.L.A. (First Transit, Inc., et al., r.p.i.)

The order to show cause is discharged. The Unions' petition for writ of mandate and/or prohibition or other appropriate relief is denied and this court's stay of the trial court's order is vacated. The real parties in interest are entitled to recover their costs.

Boland, J.

I concur:      Rubin, J.  
I dissent:      Cooper, P.J. (Opinion)

## DIVISION EIGHT (Continued)

B187937      Suh,  
v.  
Suh,

(Not for Publication)

The judgment is affirmed. The respondent is entitled to recover her costs on appeal.

Boland, J.

We concur: Cooper, P.J.  
Flier, J.

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The order is affirmed. Jeanne is awarded her costs of appeal. The matter is remanded to determine the amount of attorney's fees due to Jeanne for defending this appeal.

Boland, J.

We concur: Cooper, P.J.  
Rubin, J.

B184136 Fabbio,  
v.  
Narghizian et al.,

The submission order of November 28, 2006 in the above-entitled matter, be vacated for the reasons that due to press of other court business and the complexity of the issues, additional time is needed to complete and file the opinion in this matter. Cause resubmitted as of this date.

February 28, 2007 (Continued)

DIVISION EIGHT (Continued)

B187489      Lickett  
                 v.  
                 Keylee et al.,

Filed order denying petition for rehearing.

MISCELLANEOUS ORDER No. 2007-08

RE CUNNINGHAM v. CALIFORNIA

In pending appeals in which an appellant's opening brief was filed prior to the date this order is issued, and in which an opinion has not yet been filed, an application for leave to file a supplemental opening brief shall not be required before filing of a supplemental brief arguing, based on the decision of the United States Supreme Court in *Cunningham v. California* (No. 050-6551. January 22, 2007, 128 U.S. 856; \_\_\_ S.Ct. \_\_\_; \_\_\_ L.Ed. 2d \_\_\_; 2007 WL 135687; 2007 U.S. LEXIS 1324; 2007 DJDAR 1003). Henceforth, appellants shall not submit for filing any application for leave to file a supplemental brief challenging imposition of the upper term premised on *Cunningham*.

Any supplemental appellant's opening brief submitted pursuant to this order shall be served and filed on or before March 28, 2007. If a supplemental brief is filed pursuant to this order, the time for filing respondent's brief shall be extended by 30 days.

If respondent's brief has already been filed, respondent shall have leave to file a supplemental respondent's brief within 15 days of filing of the supplemental opening brief, and any appellant's supplemental reply brief shall be served and filed within 10 days of filing of the supplemental respondent's brief.